

DONALD W. WALKER,  
  
Plaintiff,  
  
v.  
  
MICHAEL J. ASTRUE,  
Commissioner, Social Security  
Administration,  
  
Defendant.

Case 4:07-cv-00540-FJG Document 10 Filed 11/30/07 Page 1 of 2

Court has no subject matter jurisdiction to hear plaintiff's claim.

Plaintiff responds that since these requests have been pending since 1995, plaintiff argues there has been unreasonable delay. Plaintiff believes there has been an exhaustion of administrative remedies by claimant's filing of a request for reconsideration and a request for a formal hearing on August 14, 1995, September 23, 1996, November 12, 1997, October 1, 1998, and on September 20, 2001. Plaintiff further states that the SSA did not respond to any of plaintiff's requests before the filing of this action on August 8, 2007.

The Court finds while plaintiff has made several attempts to procure a final decision from the Commissioner, plaintiff does not have yet have a final decision as required under 42 U.S.C. § 405(g) because there are still pending requests. The Court recognizes that plaintiff has no final decision yet from the Commissioner because defendant has **unreasonably** delayed the review of plaintiff's 1995 requests for reconsideration and a formal hearing and such is not the fault of plaintiff. However, the Court has no jurisdiction to hear this matter until there is a final decision. Therefore, the Court hereby **GRANTS** defendant's motion to dismiss (Doc. No. 8) plaintiff's Complaint **without prejudice**.

**IT IS SO ORDERED.**

Date: 11/30/07  
Kansas City, Missouri

**S/ FERNANDO J. GAITAN, JR.**  
Fernando J. Gaitan, Jr.  
Chief United States District Judge